

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASEY INVESTIGATORS LLC, a Washington
Limited Liability Company, and MARIO A.
TORRES, an individual,

Plaintiffs,

v.

PRONTO PROCESS SERVICE, INC., a
Washington corporation; NORTHWEST RAIL
ENTERPRISES, INC., a Washington
corporation; MARK OWENS, an individual;
GREGORY and MARY LEE RUSTAND,
individually and as a married couple; DIANE
PEFLEY, an individual; A to Z LEGAL
SUPPORT SERVICES, a Washington business
entity; ROBERT G. LACK, an individual;
WASHINGTON STATE PROCESS SERVERS
ASSOCIATION, a Washington business
association; and NATIONAL ASSOCIATION
OF PROFESSIONAL PROCESS SERVERS, a
national business association,,

Defendants.

Case No. CV04-1453 C

ANSWER TO COMPLAINT

COMES NOW Washington State Process Servers Association ("Defendant") and
hereby answers the Complaint of Plaintiffs Casey Investigators LLC and Mario A. Torres
("Plaintiffs") as follows:

I. PARTIES

1.1 Answering Paragraph 1.1 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and, therefore, denies same, except admits, on information and belief, that Plaintiff Casey Investigations, LLC ("Casey") is a limited liability company organized and licensed under the laws of the State of Washington and that Plaintiff Casey is in the business of process service.

1.2 Answering Paragraph 1.2 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and, therefore, denies same.

1.3 Answering Paragraph 1.3 of Plaintiffs' Complaint, Defendant admits the allegations therein.

1.4 Answering Paragraph 1.4 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and, therefore, denies same.

1.5 Answering Paragraph 1.5 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and, therefore, denies same, except admits, on information and belief, that Defendant Mark Owens is a single person and, at all relevant times to this matter, is and was an officer of Defendant Pronto.

1.6 Answering Paragraph 1.6 of Plaintiffs' Complaint, Defendant denies the allegations therein.

1.7 Answering Paragraph 1.7 of Plaintiffs' Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and, therefore, denies same, except admits that Defendant Pefley participates in managing Defendant A to Z Legal in Moses Lake, Grant County, Washington.

1 1.8 Answering Paragraph 1.8 of Plaintiffs' Complaint, Defendant is without
2 knowledge or information sufficient to form a belief as to the truth of the allegations therein
3 and, therefore, denies same.

4 1.9 Answering Paragraph 1.9 of Plaintiffs' Complaint, Defendant denies the
5 allegations therein, except admits that Defendant National Association of Professional
6 Process Servers is a national business association whose principal place of business is outside
7 of the jurisdiction of Washington State in Portland, Oregon, that Defendants Rustand and
8 Owens are members of NAPPS, and that Defendant MaryLee Rustand is the current
9 president of NAPPS.

10 1.10 Answering Paragraph 1.10 of Plaintiffs' Complaint, Defendant denies the
11 allegations therein, except admits that it is affiliated with NAPPS to the extent it is a charter
12 member of NAPPS, that Defendant Greg Rustand is the current president of Washington
13 State Process Servers Association, and that Defendants Rustand, Owens, and Pefley are
14 members of WSPSA.

15 **II. JURISDICTION AND VENUE**

16 2.1 Answering Paragraph 2.1 of Plaintiffs' Complaint, such paragraph appears to
17 be a legal conclusion for which an answer is not required. To the extent such paragraph is
18 not a legal conclusion and requires an answer, Defendant denies such paragraph.

19 2.2 Answering Paragraph 2.2 of Plaintiffs' Complaint, such paragraph appears to
20 be a legal conclusion for which an answer is not required. To the extent such paragraph is
21 not a legal conclusion and requires an answer, Defendant denies such paragraph.

22 **III. GENERAL ALLEGATIONS**

23 3.1 Answering Paragraph 3.1 of Plaintiffs' Complaint, Defendant is without
24 knowledge or information sufficient to form a belief as to the truth of the allegations therein
25 and, therefore, denies same.
26

1 3.2 Answering Paragraph 3.2 of Plaintiffs' Complaint, Defendant is without
2 knowledge or information sufficient to form a belief as to the truth of the allegations therein
3 and, therefore, denies same except admits that Torres served as a managing member of
4 Casey.

5 3.3 Answering Paragraph 3.3 of Plaintiffs' Complaint, Defendant is without
6 knowledge or information sufficient to form a belief as to the truth of the allegations therein
7 and, therefore, denies same except admits that Casey is in the business of process service.

8 3.4-3.16 Answering Paragraphs 3.4 through 3.16 of Plaintiffs' Complaint,
9 Defendant is without knowledge or information sufficient to form a belief as to the truth of
10 the allegations therein and, therefore, denies same.

11 3.17 Answering Paragraph 3.5 of Plaintiffs' Complaint, Defendant admits that
12 Pronto and A to Z legal are competitors with Casey to the extent they conduct business in the
13 same county. Defendant otherwise denies the allegations of this paragraph.

14 3.18-3.19 Answering Paragraphs 3.18 through 3.19 of Plaintiffs' Complaint,
15 Defendant denies the allegations as they pertain to Defendant WSPSA. Defendant is
16 otherwise without knowledge or information sufficient to form a belief as to the truth of the
17 allegations of this paragraph and, therefore, denies same.

18 IV. CAUSES OF ACTION

19 First Cause of Action—Violation of Sherman Act

20 4.1 Answering Paragraph 4.1 of Plaintiffs' Complaint, Defendant incorporates by
21 reference its answers to Paragraphs 1.1 through 3.19.

22 4.2-4.7 Answering Paragraphs 4.2 through 4.7 of Plaintiffs' Complaint, such
23 paragraphs appear to be legal conclusions for which an answer is not required. To the extent
24 such paragraphs are not legal conclusions and require an answer, Defendant denies such
25 paragraphs.
26

Second Cause of Action—Defamation

4.8 Answering Paragraph 4.8 of Plaintiffs' Complaint, Defendant incorporates by reference its answers to Paragraphs 1.1 through 4.7.

4.9-4.15 Answering Paragraphs 4.9 through 4.15 of Plaintiffs' Complaint, such paragraphs appear to be legal conclusions for which an answer is not required. To the extent such paragraphs are not legal conclusions and require an answer, Defendant denies such paragraphs.

Third Cause of Action—Consumer Protection Act Violation

4.16 Answering Paragraph 4.16 of Plaintiffs' Complaint, Defendant incorporates by reference its answers to Paragraphs 1.1 through 4.15.

4.17-4.20 Answering Paragraphs 4.17 through 4.20 of Plaintiffs' Complaint, such paragraphs appear to be legal conclusions for which an answer is not required. To the extent such paragraphs are not legal conclusions and require an answer, Defendant denies such paragraphs.

Fourth Cause of Action—Intentional Interference with Contractual Relations

4.21 Answering Paragraph 4.21 of Plaintiffs' Complaint, Defendant incorporates by reference its answers to Paragraphs 1.1 through 4.20.

4.22-4.31 Answering Paragraphs 4.22 through 4.31 of Plaintiffs' Complaint, such paragraphs appear to be legal conclusions for which an answer is not required. To the extent such paragraphs are not legal conclusions and require an answer, Defendant denies such paragraphs.

Fifth Cause of Action—Interference with Business Expectancy

4.32 Answering Paragraph 4.32 of Plaintiffs' Complaint, Defendant incorporates by reference its answers to Paragraphs 1.1 through 4.31.

4.33-4.38 Answering Paragraphs 4.33 through 4.38 of Plaintiffs' Complaint, such paragraphs appear to be legal conclusions for which an answer is not required. To the

1 extent such paragraphs are not legal conclusions and require an answer, Defendant denies
2 such paragraphs.

3 Any allegations of the Complaint not specifically admitted in the preceding
4 paragraphs are denied.

5 **V. ADDITIONAL DEFENSES**

6 BY WAY OF FURTHER DEFENSE AND/OR AFFIRMATIVE DEFENSE,
7 Defendant alleges as follows:

8 1. Failure to State a Claim: Plaintiff has failed to state a claim against Defendant
9 upon which relief can be granted.

10 2. Frivolous Claim: Plaintiffs' claims against Defendant are frivolous.

11 3. Good Faith: Defendant at all times acted in good faith and had reasonable
12 grounds for believing that it had not violated the law.

13 5. Failure to Mitigate: Plaintiffs have failed to mitigate their damages, if any,
14 and to protect themselves from avoidable consequences.

15 6. Contributory Negligence: If Plaintiffs are damaged or injured as stated in
16 their Complaint, the damages or injuries resulted from Plaintiffs' own fault or negligence
17 which either bars or reduces Plaintiffs' claims.

18 7. Intervening Acts: If Plaintiffs are damaged or injured as stated in their
19 Complaint, the damages or injuries are the proximate result of acts of others or intervening
20 acts of others over which Defendant had no control and no legal liability.

21 8. Justification: Defendant's acts at all times were justified.

22 9. Privilege: Defendant's acts at all times were privileged.

23 10. Standing: Plaintiffs lack standing to bring this action against Defendant.

24 11. Failure to allege special damages: Plaintiffs' cause of action for defamation is
25 barred by Plaintiff's failure to allege special damages with sufficient particularity.
26

12. First Amendment Protection: Defendant's acts at all times were within the scope of the First Amendment protection for free speech.

13. Unclean Hands: Plaintiffs' claims are barred as a result of their illegal or inequitable conduct.

14. In Pari Delicto: Plaintiffs' claims are barred as a result of their participation in the alleged wrongful acts.

15. Speculative Injury: Plaintiffs' cause of action is barred because their alleged injury is merely speculative.

16. Reasonable Business Practices: Defendant's acts at all times were reasonable business practices and/or not injurious to the public.

17. Public Interest: Defendant's acts did not negatively impact public interest, they were not a part of a pattern or generalized course of conduct affecting public interest, nor is the public interest in Defendant's acts specific and substantial.

18. No Pattern: Defendant's acts did not constitute a pattern of conduct necessary to establish an unfair act or practice.

19. Preemption: Plaintiffs' state law Consumer Protection Act claim is preempted by federal law.

20. No Unreasonable Restraint on Trade: Any restraint on trade caused by Defendant's acts was not unreasonable.

VI. PRAYER FOR RELIEF

WHEREFORE, Defendant prays for relief as follows:

1. That Plaintiffs take nothing by their Complaint and that their Complaint be dismissed in its entirety with prejudice;

2. That Defendant be awarded its attorneys' fees and costs pursuant to applicable law, including RCW 4.84.185; and

Dated: August 18, 2004

Andrea Lussignii

A Professional Corporation

**Attorneys for Defendant
WASHINGTON STATE PROCESS
SERVERS ASSOCIATION**